

28 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
29 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
30 **authority -- Reimbursement of Uniform School Fund.**

31 (1) As used in this section:

32 (a) "Active solar system":

33 (i) means a system of equipment capable of collecting and converting incident solar
34 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
35 by a separate apparatus to storage or to the point of use; and

36 (ii) includes water heating, space heating or cooling, and electrical or mechanical
37 energy generation.

38 (b) "Biomass system" means any system of apparatus and equipment [~~capable of~~
39 ~~converting organic plant, wood, or waste products into electrical and thermal energy and~~
40 ~~transferring these forms of energy by a separate apparatus to the point of use or storage]~~ for use
41 in converting material into biomass energy, as defined in Section 59-12-102, and transporting
42 that energy by separate apparatus to the point of use or storage.

43 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
44 association, corporation, cooperative, or other entity under which business is conducted or
45 transacted.

46 (d) "Commercial energy system" means any active solar, passive solar, geothermal
47 electricity, direct-use geothermal, wind, hydroenergy, or biomass system used to supply energy
48 to a commercial unit or as a commercial enterprise.

49 (e) "Commercial enterprise" means a business entity whose purpose is to produce
50 electrical, mechanical, or thermal energy for sale from a commercial energy system.

51 (f) (i) "Commercial unit" means any building or structure [~~which~~] that a business entity
52 uses to transact its business except as provided in Subsection (1)(f)(ii); and

53 (ii) (A) in the case of an active solar system used for agricultural water pumping or a
54 wind system, each individual energy generating device shall be a commercial unit; and

55 (B) if an energy system is the building or structure [~~which~~] that a business entity uses
56 to transact its business, a commercial unit is the complete energy system itself.

57 (g) "Direct-use geothermal system" means a system of apparatus and equipment
58 enabling the direct use of thermal energy, generally between 100 and 300 Fahrenheit, that is

59 contained in the earth to meet energy needs, including heating a building, an industrial process,
60 and aquaculture.

61 (h) "Geothermal electricity" means energy contained in heat that continuously flows
62 outward from the earth that is used as a sole source of energy to produce electricity.

63 ~~(g)~~ (i) "Hydroenergy system" means a system of apparatus and equipment capable of
64 intercepting and converting kinetic water energy into electrical or mechanical energy and
65 transferring this form of energy by separate apparatus to the point of use or storage.

66 ~~(h)~~ (j) "Individual taxpayer" means any person who is a taxpayer as defined in
67 Section 59-10-103 and an individual as defined in Section 59-10-103.

68 ~~(i)~~ (k) "Passive solar system":

69 (i) means a direct thermal system ~~[which]~~ that utilizes the structure of a building and its
70 operable components to provide for collection, storage, and distribution of heating or cooling
71 during the appropriate times of the year by utilizing the climate resources available at the site;
72 and

73 (ii) includes those portions and components of a building that are expressly designed
74 and required for the collection, storage, and distribution of solar energy.

75 ~~(j)~~ (l) "Residential energy system" means any active solar, passive solar, biomass,
76 direct-use geothermal, wind, or hydroenergy system used to supply energy to or for any
77 residential unit.

78 ~~(k)~~ (m) "Residential unit" means any house, condominium, apartment, or similar
79 dwelling unit ~~[which]~~ that serves as a dwelling for a person, group of persons, or a family but
80 does not include property subject to a fee under:

81 (i) Section 59-2-404;

82 (ii) Section 59-2-405;

83 (iii) Section 59-2-405.1;

84 (iv) Section 59-2-405.2; or

85 (v) Section 59-2-405.3.

86 ~~(l)~~ (n) "Utah Geological Survey" means the Utah Geological Survey established in
87 Section 63-73-5.

88 ~~(m)~~ (o) "Wind system" means a system of apparatus and equipment capable of
89 intercepting and converting wind energy into mechanical or electrical energy and transferring

90 these forms of energy by a separate apparatus to the point of use or storage.

91 (2) (a) (i) For taxable years beginning on or after January 1, [~~2004~~] 2006, but beginning
92 on or before December 31, [~~2006~~] 2011, a business entity that purchases and completes or
93 participates in the financing of a residential energy system to supply all or part of the energy
94 required for a residential unit owned or used by the business entity and situated in Utah is
95 entitled to a tax credit as provided in this Subsection (2)(a).

96 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a
97 residential energy system installed with respect to each residential unit it owns or uses,
98 including installation costs, against any tax due under this chapter for the taxable year in which
99 the energy system is completed and placed in service.

100 (B) The total amount of the credit under this Subsection (2)(a) may not exceed \$2,000
101 per residential unit.

102 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
103 completed and placed in service on or after January 1, [~~2004~~] 2006, but on or before December
104 31, [~~2006~~] 2011.

105 (iii) If a business entity sells a residential unit to an individual taxpayer [~~prior to~~]
106 before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

107 (A) assign its right to this tax credit to the individual taxpayer; and

108 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
109 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
110 individual taxpayer had completed or participated in the costs of the residential energy system
111 under Section 59-10-134.

112 (b) (i) For taxable years beginning on or after January 1, [~~2004~~] 2006, but beginning on
113 or before December 31, [~~2006~~] 2011, a business entity that purchases or participates in the
114 financing of a commercial energy system is entitled to a tax credit as provided in this
115 Subsection (2)(b) if:

116 (A) the commercial energy system supplies all or part of the energy required by
117 commercial units owned or used by the business entity; or

118 (B) the business entity sells all or part of the energy produced by the commercial
119 energy system as a commercial enterprise.

120 (ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any

121 commercial energy system installed, including installation costs, against any tax due under this
122 chapter for the taxable year in which the commercial energy system is completed and placed in
123 service.

124 (B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000
125 per commercial unit.

126 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
127 system completed and placed in service on or after January 1, [~~2001~~] 2006, but on or before
128 December 31, [~~2006~~] 2011.

129 (iii) A business entity that leases a commercial energy system installed on a
130 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can
131 confirm that the lessor irrevocably elects not to claim the credit.

132 (iv) Only the principal recovery portion of the lease payments, which is the cost
133 incurred by a business entity in acquiring a commercial energy system, excluding interest
134 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

135 (v) A business entity that leases a commercial energy system is eligible to use the tax
136 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation
137 of the lease.

138 (c) (i) A tax credit under this section may be claimed for the taxable year in which the
139 energy system is completed and placed in service.

140 (ii) Additional energy systems or parts of energy systems may be claimed for
141 subsequent years.

142 (iii) If the amount of a tax credit under this section exceeds a business entity's tax
143 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
144 may be carried over for a period which does not exceed the next four taxable years.

145 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
146 credits provided under the laws or rules and regulations of the United States.

147 (b) (i) The Utah Geological Survey may set standards for residential and commercial
148 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
149 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
150 nonrenewable energy resources in an appropriate and economic manner.

151 (ii) A tax credit may not be taken under Subsection (2) until the Utah Geological

152 Survey has certified that the energy system has been completely installed and is a viable system
153 for saving or production of energy from renewable resources.

154 (c) The Utah Geological Survey and the commission [~~are authorized to promulgate~~]
155 may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
156 Act, [~~which~~] that are necessary to implement this section.

157 (d) The Uniform School Fund shall be reimbursed by transfers from the General Fund
158 for any credits taken under this section.

159 Section 2. Section **59-10-134** is amended to read:

160 **59-10-134. Renewable energy systems tax credit -- Definitions -- Individual tax**
161 **credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition to**
162 **allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of**
163 **Uniform School Fund.**

164 (1) As used in this part:

165 (a) "Active solar system":

166 (i) means a system of equipment capable of collecting and converting incident solar
167 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
168 by a separate apparatus to storage or to the point of use; and

169 (ii) includes water heating, space heating or cooling, and electrical or mechanical
170 energy generation.

171 (b) "Biomass system" means any system of apparatus and equipment [~~capable of~~
172 ~~converting organic plant, wood, or waste products into electrical and thermal energy and~~
173 ~~transferring these forms of energy by a separate apparatus to the point of use or storage]~~ for use
174 in converting material into biomass energy, as defined in Section 59-12-102, and transporting
175 that energy by separate apparatus to the point of use or storage.

176 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
177 association, corporation, cooperative, or other entity under which business is conducted or
178 transacted.

179 (d) "Commercial energy system" means any active solar, passive solar, geothermal
180 electricity, direct-use geothermal, wind, hydroenergy, or biomass system used to supply energy
181 to a commercial unit or as a commercial enterprise.

182 (e) "Commercial enterprise" means a business entity whose purpose is to produce

183 electrical, mechanical, or thermal energy for sale from a commercial energy system.

184 (f) (i) "Commercial unit" means any building or structure [~~which~~] that a business entity
185 uses to transact its business, except as provided in Subsection (1)(f)(ii); and

186 (ii) (A) in the case of an active solar system used for agricultural water pumping or a
187 wind system, each individual energy generating device shall be a commercial unit; and

188 (B) if an energy system is the building or structure [~~which~~] that a business entity uses
189 to transact its business, a commercial unit is the complete energy system itself.

190 (g) "Direct-use geothermal system" means a system of apparatus and equipment
191 enabling the direct use of thermal energy, generally between 100 and 300 Fahrenheit, that is
192 contained in the earth to meet energy needs, including heating a building, an industrial process,
193 and aquaculture.

194 [~~(g)~~] (h) "Hydroenergy system" means a system of apparatus and equipment capable of
195 intercepting and converting kinetic water energy into electrical or mechanical energy and
196 transferring this form of energy by separate apparatus to the point of use or storage.

197 [~~(h)~~] (i) "Individual taxpayer" means any person who is a taxpayer as defined in
198 Section 59-10-103 and an individual as defined in Section 59-10-103.

199 [~~(i)~~] (j) "Passive solar system":

200 (i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its
201 operable components to provide for collection, storage, and distribution of heating or cooling
202 during the appropriate times of the year by utilizing the climate resources available at the site;
203 and

204 (ii) includes those portions and components of a building that are expressly designed
205 and required for the collection, storage, and distribution of solar energy.

206 [~~(j)~~] (k) "Residential energy system" means any active solar, passive solar, biomass,
207 direct-use geothermal, wind, or hydroenergy system used to supply energy to or for any
208 residential unit.

209 [~~(k)~~] (l) "Residential unit" means any house, condominium, apartment, or similar
210 dwelling unit [~~which~~] that serves as a dwelling for a person, group of persons, or a family but
211 does not include property subject to a fee under:

212 (i) Section 59-2-404;

213 (ii) Section 59-2-405;

- 214 (iii) Section 59-2-405.1;
- 215 (iv) Section 59-2-405.2; or
- 216 (v) Section 59-2-405.3.

217 ~~[(t)]~~ (m) "Utah Geological Survey" means the Utah Geological Survey established in
218 Section 63-73-5.

219 ~~[(m)]~~ (n) "Wind system" means a system of apparatus and equipment capable of
220 intercepting and converting wind energy into mechanical or electrical energy and transferring
221 these forms of energy by a separate apparatus to the point of use or storage.

222 (2) For taxable years beginning on or after January 1, ~~[2001]~~ 2006, but beginning on or
223 before December 31, ~~[2006]~~ 2011, any individual taxpayer may claim a tax credit as provided
224 in this section if:

225 (a) the individual taxpayer purchases and completes or participates in the financing of a
226 residential energy system to supply all or part of the energy for the individual taxpayer's
227 residential unit in the state; or

228 (b) (i) a business entity sells a residential unit to an individual taxpayer ~~[prior to]~~
229 before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

230 (ii) the business entity assigns its right to the tax credit to the individual taxpayer as
231 provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

232 (3) (a) An individual taxpayer meeting the requirements of Subsection (2) is entitled to
233 a tax credit equal to 25% of the costs of the energy system, including installation costs, against
234 any income tax liability of the individual taxpayer under this chapter for the taxable year in
235 which the residential energy system is completed and placed in service.

236 (b) The total amount of the credit under this section may not exceed \$2,000 per
237 residential unit.

238 (c) The credit under this section is allowed for any residential energy system completed
239 and placed in service on or after January 1, ~~[2001]~~ 2006, but on or before December 31, ~~[2006]~~
240 2011.

241 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
242 taxable year in which the energy system is completed and placed in service.

243 (b) Additional residential energy systems or parts of residential energy systems may be
244 similarly claimed in returns for subsequent taxable years as long as the total amount claimed

245 does not exceed \$2,000 per residential unit.

246 (c) If the amount of the tax credit under this section exceeds the income tax liability of
247 the individual taxpayer for that taxable year, then the amount not used may be carried over for
248 a period [~~which~~] that does not exceed the next four taxable years.

249 (5) (a) Individual taxpayers who lease a residential energy system installed on a
250 residential unit are eligible for the residential energy tax credits if the lessee can confirm that
251 the lessor irrevocably elects not to claim the state tax credit.

252 (b) Only the principal recovery portion of the lease payments, which is the cost
253 incurred by the taxpayer in acquiring the residential energy system excluding interest charges
254 and maintenance expenses, is eligible for the tax credits.

255 (c) Individual taxpayers who lease residential energy systems are eligible to use the tax
256 credits for a period no greater than seven years from the initiation of the lease.

257 (6) (a) A business entity that purchases and completes or participates in the financing
258 of a residential energy system to supply all or part of the energy required for a residential unit
259 owned or used by the business entity and situated in Utah is entitled to a tax credit as provided
260 in this Subsection (6).

261 (b) (i) For taxable years beginning on or after January 1, [~~2004~~] 2006, but beginning on
262 or before December 31, [~~2006~~] 2011, a business entity is entitled to a tax credit equal to 25% of
263 the costs of a residential energy system installed with respect to each residential unit it owns or
264 uses, including installation costs, against any tax due under this chapter for the taxable year in
265 which the energy system is completed and placed in service.

266 (ii) The total amount of the credit under this Subsection (6) may not exceed \$2,000 per
267 residential unit.

268 (iii) The credit under this Subsection (6) is allowed for any residential energy system
269 completed and placed in service on or after January 1, [~~2004~~] 2006, but on or before December
270 31, [~~2006~~] 2011.

271 (c) If a business entity sells a residential unit to an individual taxpayer [~~prior to~~] before
272 making a claim for the tax credit under this Subsection (6), the business entity may:

273 (i) assign its right to this tax credit to the individual taxpayer; and

274 (ii) if the business entity assigns its right to the tax credit to an individual taxpayer
275 under Subsection (6)(c)(i), the individual taxpayer may claim the tax credit as if the individual

276 taxpayer had completed or participated in the costs of the residential energy system under this
277 section.

278 (7) (a) A business entity that purchases or participates in the financing of a commercial
279 energy system is entitled to a tax credit as provided in this Subsection (7) if:

280 (i) the commercial energy system supplies all or part of the energy required by
281 commercial units owned or used by the business entity; or

282 (ii) the business entity sells all or part of the energy produced by the commercial
283 energy system as a commercial enterprise.

284 (b) (i) A business entity is entitled to a tax credit equal to 10% of the costs of any
285 commercial energy system installed, including installation costs, against any tax due under this
286 chapter for the taxable year in which the commercial energy system is completed and placed in
287 service.

288 (ii) The total amount of the credit under this Subsection (7) may not exceed \$50,000
289 per commercial unit.

290 (iii) The credit under this Subsection (7) is allowed for any commercial energy system
291 completed and placed in service on or after January 1, [~~2001~~] 2006, but on or before December
292 31, [~~2006~~] 2011.

293 (c) A business entity that leases a commercial energy system installed on a commercial
294 unit is eligible for the tax credit under this Subsection (7) if the lessee can confirm that the
295 lessor irrevocably elects not to claim the credit.

296 (d) Only the principal recovery portion of the lease payments, which is the cost
297 incurred by a business entity in acquiring a commercial energy system, excluding interest
298 charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).

299 (e) A business entity that leases a commercial energy system is eligible to use the tax
300 credit under this Subsection (7) for a period no greater than seven years from the initiation of
301 the lease.

302 (8) (a) A tax credit under this section may be claimed for the taxable year in which the
303 energy system is completed and placed in service.

304 (b) Additional energy systems or parts of energy systems may be claimed for
305 subsequent years.

306 (c) If the amount of a tax credit under this section exceeds a business entity's tax

307 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
308 may be carried over for a period which does not exceed the next four taxable years.

309 (9) The tax credits provided for under this section are in addition to any tax credits
310 provided under the laws or rules and regulations of the United States.

311 (10) (a) The Utah Geological Survey may set standards for residential and commercial
312 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
313 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
314 nonrenewable energy resources in an appropriate and economic manner.

315 (b) A tax credit may not be taken under this section until the Utah Geological Survey
316 has certified that the energy system has been completely installed and is a viable system for
317 saving or production of energy from renewable resources.

318 (11) The Utah Geological Survey and the commission [~~are authorized to promulgate~~]
319 may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
320 Act, [~~which~~] that are necessary to implement this section.

321 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund
322 for any credits taken under this section.

Legislative Review Note
as of 11-10-05 8:51 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-21-05 2:58 PM

The Public Utilities and Technology Interim Committee recommended this bill.

State Impact

Passage of this bill could reduce the General Fund by \$100,000 annually beginning in FY 2008.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	(\$100,000)
TOTAL	\$0	\$0	\$0	(\$100,000)

Individual and Business Impact

Individuals utilizing renewable energy tax credits could see a reduction in their tax liability.

Office of the Legislative Fiscal Analyst